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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.829 OF 2003

Fortis Financial Services Limited).. Plaintiffs

Versus

M/s.Good Value Marketing Company Ltd.)
and another).. Defendants

Ms.Padmaji Gupta i/b.Dholakia Gupte & Co. for the Plaintiffs.

None present for the Defendants.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 24TH APRIL 2006

P.C.:

. This Suit has been filed against Defendant No.1 for non-payment of the charges of the Plaintiffs in respect of the plant and machinery leased to Defendant No.1. Defendant No.2 was the Guarantor in respect of the transaction between the Plaintiffs and Defendant No.1. Admittedly, Defendant No.1 is before the BIFR and the Reference which has been registered, being Case No.140 of 2003, is pending. The Summons for Judgment was taken out against both the Defendants and was allowed against Defendant No.2. Conditional leave was granted to Defendant No.2 to defend the Suit by depositing Rs.85.00 lakhs (Rupees Eighty Five lakhs) within a period of 16 weeks from the date of the order i.e. 11th July 2005.

2. A non-deposit Certificate dated 9th March 2006 has been filed on record showing that Defendant No.2 has not deposited the amount as directed by this Court.

3. The Plaintiffs have filed the compilation of documents along with the list. These documents indicate that the lease agreement was entered into on 23rd December 1995 between the Plaintiffs and Defendant No.1 Company for the lease of equipments. All other documents support the case made out by the Plaintiffs.

4. Hence, decree as prayed for against Defendant No.2 only.

5. Suit against Defendant No.1 still survives.